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ARKANSAS MOTOR CARRIERS ASSOCIATION

January 29, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128

Dear Ms. Salas:

On Monday, January 26, 1998, Senator Tim Hutchinson (R-AR) and I met with Chairman William Kennard, Mr. Thomas Power, Legal Advisor, and Mr. John Muleta, Deputy Chief of the FCC Common Carrier Bureau, to discuss the pricing methodology applicable to noncoin pay phone calls, and to determine the feasibility of applying incremental cost-basted pricing to such calls. As a follow-up to that meeting, I sent Chairman Kennard the attached letter.

An original and one copy of this letter with attachment are being submitted to you in compliance with 47 C.F.R. Section 1.1206(a)(2) to be included in the record in this proceeding. Kindly date-stamp the additional copy of this letter and return it to me in the enclosed postage prepaid envelope. Any questions concerning this submissions should be addressed to the undersigned.

Respectfully submitted,

Lane Kidd

Lane Kidd

cc: Chairman William Kennard

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List ABCDE

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ARKANSAS MOTOR CARRIERS ASSOCIATION

January 29, 1998

William Kennard
Chairman
Federal Communications Commission
1919 M Street
Washington, D.C. 20554

Re: CC Docket No. 96-128

Dear Chairman Kennard:

I very much appreciate the opportunity given Senator Hutchinson and me on Monday, January 26, 1998, to meet with you concerning the Commission's recent decision to mandate a 28.4 cent per-call compensation rate to owners of pay phones from which 800 number calls are made.

As we discussed, no one with whom I have spoken disputes whether pay phone owners should be fairly compensated. However, the structure and amount of the surcharge will leave some industries virtually powerless to make adjustments. It is estimated that the trucking industry alone will pay about $70 million this year in surcharge fees.

Adjusting to this surcharge is difficult for trucking companies for the following reasons:

- The typical trucking company doesn't have sufficient bargaining power with long distance carriers to negotiate reduced rates. Rather than negotiating with its customer base to pay a reduced surcharge and absorbing a portion, most long distance carriers are, in fact, adding an additional administrative fee on top of each surcharge.

- The trucking industry's lack of bargaining power is exacerbated by the fact that there is no competition at individual pay phone locations. Most calls in our industry are placed from truck stops. These locations almost always use only one pay phone provider. Frequently these truck stop owners have an exclusive agreement with the pay phone provider and receive a royalty based on usage. This location monopoly means that competition at the pay phone site, a necessary factor for lowering prices, will be virtually non-existent.

-Blocking in-bound 800 calls to avoid the surcharge would contradict virtually every edict of customer and employee relations.

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You kindly invited us to offer our suggestions on what a fair compensation rate and surcharge structure would be and still meet the Congressional mandate. As you well know, there is no easy answer. But we believe that any rate must be set according to the pay phone owners' actual operating costs rather than basing the surcharge on a non-existent market rate. The Arkansas Motor Carriers Association is a state affiliate of the American Trucking Associations (ATA). ATA is a member of the "Consumer-Business Coalition for Fair Pay phone 800 Fees. "Their position, as stated in a petition on file with the Commission, is that, absent a truly competitive marketplace, fair compensation can be set only via an incremental, bottom-up, cost-based approach. Our organization would agree with this approach.

Other suggestions heard from trucking executives in my organization include a cost-based surcharge which could be structured to enable the pay phone owner to recover the initial cost of the phone but which would drop to a nominal level once these costs were recovered. For example, we've calculated that a pay phone provider could install a new phone at most truck stops and recover the entire cost of the phone from the surcharge alone in just 30 days. The surcharges collected after will be a windfall profit.

Of course, setting a fair cost-based rate will not be easy. I believe the pay phone cost information currently before the Commission and used in determining the current fee may be inadequate. For example, it is my understanding that the Commission relied on data submitted solely by independent pay phone providers. A more accurate cost analysis might have included all types of pay phone providers.

I would encourage the Commission to consider further study on this surcharge by announcing its intention to recompute the pay phone compensation rate on a cost basis. Gather appropriate information from all types of pay phone providers. Allow small business owners, who will soon be receiving their company phone bills with the surcharge added, to provide input on possible solutions. Armed with this additional information, the Commission should be able to set a compensation rate that is fair to all involved and within the mandates given you by Congress.

The trucking industry is critical to Arkansas. This issue is very critical to our organization's member companies, perhaps more so than the recent fuel crisis we experienced two years ago. We support fair compensation to pay phone owners. But the current surcharge will generate far greater profits for pay phone owners than Congress or the Commission would have intended.

Again, thank you so much for your time this week. If there is additional information that I can provide, please don't hesitate to contact me.

Sincerely,

Lane Kidd

Lane Kidd
President